

BUTZEL LONG
TIGHE PATTON PLLC
ATTORNEYS AND COUNSELORS



1747 Pennsylvania Avenue N.W. Suite 300
Washington, D.C. 20006
Tel: 202 454 2800
Fax: 202 454 2805
butzeltp.com

Thomas K. Bick
202 454 2818
tbick@butzeltp.com

Admitted in Virginia and
the District of Columbia

By email (herring.margaret@epa.gov)
And regular mail

Ms. Margaret Herring
US EPA Region 5
Civil Investigator
Superfund Division
77 W. Jackson Blvd.
Chicago, IL 60604

Re: Chemetco Superfund Site/Ability-to-Pay Application
of Warrenton Copper LLC

Dear Ms. Herring:

This firm represents Warrenton Copper LLC ("WC"), one of the companies identified by EPA as a potentially responsible party (PRP) at the Chemetco Superfund Site. As we advised EPA earlier, WC closed its doors on December 19, 2008, and has been out of business ever since. It has virtually no remaining assets other than the property in Warrenton, Missouri where its abandoned plant is located. It has not found a buyer for that property.

By letter dated December 13, 2011, EPA's Michelle Herr advised that the government considered WC to be a PRP under the federal Superfund law. Ms. Herr's letter also stated as follows: "If your company believes that it may be eligible for a *de minimis* settlement at this Site, please contact Margaret Herring, Civil Investigator ...for additional information on *de minimis* settlements." This statement gave WC the impression that EPA would soon begin evaluating ability-to-pay ("ATP") applications. You confirmed as much in my subsequent discussions with you. On several occasions we have advised EPA of WC's financial condition and expressed an interest in initiating ATP discussions. To date, 16 months since WC's receipt of Ms. Herr's PRP notice letter, there have been no such discussions. Meanwhile, members of the Chemetco PRP Group, separately and collectively, have incurred—and no doubt will continue to incur—substantial administrative and consulting costs.

A meeting of the PRP Group has been scheduled in Chicago for April 16, 2013. While I am not at liberty to disclose the agenda for that meeting, I'm sure it comes as no surprise to EPA that the Group will be discussing, among other things, its plans going forward and how those

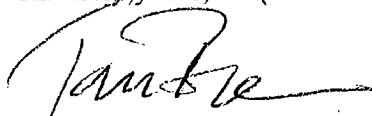
efforts will be funded. Given its importance, I am planning to attend that April 16 meeting in person.

While I am in Chicago for the PRP Group meeting, I would very much appreciate the opportunity to meet with you—and other Agency representatives as appropriate—to discuss the ATP application process. You may recall that I sent you by email on August 15, 2012 the results of an ATP analysis conducted by WC using EPA's ABEL model. The analysis concluded that WC had virtually no ability to pay more than a token portion of the costs of responding to contamination at the Chemetco Site. I would hope that this analysis could at least be a starting point in our discussions of WC's ATP application.

Specifically, I'd like to propose meeting with you on Wednesday, March 15, 2013, at EPA Region 5, starting about 3:30pm. Please let me know at your earliest convenience if you are available for such a meeting and whether this date and starting time is convenient for you.

I look forward to meeting with you and getting the ball rolling on the ATP review process.

Sincerely, yours,

A handwritten signature in black ink, appearing to read 'Tom Bick', written over a horizontal line.

Thomas K. Bick
Counsel Warrenton Copper LLC

Cc: Michelle Kerr (EPA) (Kerr.michelle@epa.gov)
Thomas Martin (EPA) (Martin.thomas@epa.gov)
Evi Georgiou (BLTP)